IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 21043 of 2005

Between:

Malireddy Veerabhadra Rao and 3 others

..... PETITIONERS

AND

The Executive Officer, Sri MSN. Charities,

Kakinada, E.G.District and 3 others

.....RESPONDENTS

ORDER:

Challenging the order of the 2nd respondent in M.A.No.37/2004, dated 04.03.2004, the present writ petition is filed.

The case of the petitioners is that they are landless poor and they are the tenants of land situated in R.S.No,205/1 to an extent of Ac.3.28 cents wet and in R.S.No.210 to an extent of Ac.6.06 cents wet, and they are enjoying the same equally since long time, and in the meanwhile, the 1st respondent issued proceedings in Rc.No.B1/1/2003-36, dated 31.05.2003 cancelling their lease and directed them to hand over the possession of the lands, without giving any prior notice or opportunity. Aggrieved by the same, the petitioners filed W.P.No.14237/2003 before this Court and the same was disposed of by order dated 28.08.2003, directing the petitioners to make an application before the

2nd respondent seeking their relief. Accordingly, the petitioners made a representation before the 2nd respondent, requesting to declare them as landless poor, but the 2nd respondent, without giving any reasonable opportunity, passed the impugned order, rejecting their claim. Hence the present writ petition.

Heard the learned counsel for the petitioners and the learned Government Pleader for Endowments.

The learned counsel for the petitioners contended that before passing the impugned order, no reasonable opportunity was given to the petitioners, and therefore, he prays to allow the writ petition. He also raised several contentions relating to the facts of the case.

The learned Government Pleader for Endowments opposed the same on the ground that a statutory appeal is provided against the impugned order passed by the 2nd respondent and prays to dismiss the writ petition.

Alternative remedy is not bar to exercise jurisdiction under Article 226 of the Constitution of India, in the circumstances, where the principles of natural justice

have been violated, fundamental rights of the petitioners have been infringed, and when the jurisdiction of the authority who passed the impugned order is under challenge.

The Assistant Commissioner of Endowments, Rajahmundy of East Godavari District is the appropriate authority to decide and determine as to whether a person is landless poor or not. The jurisdiction of the Assistant Commissioner of Endowments is not under challenge. So also no fundamental right of the petitioners is infringed. Only the point rests to be considered in this case is whether there is any violation of principles of natural justice in this case.

Even before passing the impugned order, notice has been given to the counsel appearing for the petitioners, but the contention of the petitioners is that time is not sufficient to participate in the enquiry. It is not a case where total violation of principles of natural justice. In fact, notice was given to the counsel appearing for the petitioners, but the petitioners have not availed the said opportunity. Therefore, the petitioners have to avail alternative remedy of appeal before the Regional Joint Commissioner of Endowments against the impugned order.

In view of the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, with a direction to the petitioners to avail the remedy of appeal before the Regional Joint Commissioner of Endowments as against the impugned order.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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K.C. BHANU,J

Dated: 27.09.2005

Dsr